Executive Summary – Enforcement Matter – Case No. 52050 Enduro Composites, Inc. RN104559190 Docket No. 2016-0413-AIR-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

AIR

Small Business:

No

Location(s) Where Violation(s) Occurred:

Enduro Systems Houston, 16602 Central Green Boulevard, Houston, Harris County

Type of Operation:

Fiberglass manufacturing plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: August 12, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,250

Amount Deferred for Expedited Settlement: \$2,250 **Amount Deferred for Financial Inability to Pay:** \$0

Total Paid to General Revenue: \$9,000 **Total Due to General Revenue:** \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A Applicable Penalty Policy: April 2014

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 28, 2016

Date(s) of NOE(s): February 25, 2016

Executive Summary – Enforcement Matter – Case No. 52050 Enduro Composites, Inc. RN104559190 Docket No. 2016-0413-AIR-E

Violation Information

Failed to submit an application for renewal at least six months prior to the expiration of the permit. Specifically, New Source Review ("NSR") Permit No. 74865 expired on July 14, 2015, and the Respondent continued to operate the Plant without authorization [30 Tex. Admin. Code §§ 116.110(a) and 116.315(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

On January 27, 2016, the Respondent submitted a permit application to authorize the sources of air emissions at the Plant.

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, until such time authorization to operate is obtained or until 360 days, whichever is earlier, comply with the provisions in expired NSR Permit No. 74865;
- b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application submitted on January 27, 2016, within 30 days after the date of such requests, or by any other deadline specified in writing; and
- c. Within 360 days, submit written certification that either authorization to operate the sources of air emissions at the Plant has been obtained or that operation has ceased until such time that appropriate authorization has been obtained.

Litigation Information

Date Petition(s) Filed: N/A Date Answer(s) Filed: N/A SOAH Referral Date: N/A

Hearing Date(s): N/A **Settlement Date:** N/A

Executive Summary – Enforcement Matter – Case No. 52050 Enduro Composites, Inc. RN104559190 Docket No. 2016-0413-AIR-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Raime Hayes-Falero, Enforcement Division, Enforcement Team 5, MC R-12, (713) 767-3567; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

TCEQ SEP Coordinator: N/A

Respondent: Wallace S. Woodlief, President and Chief Operating Officer, Enduro

Composites, Inc., 16602 Central Green Boulevard, Houston, Texas 77032

Respondent's Attorney: Lydia Gonzalez Gromatzky, Andrews Kurth LLP, 111

Congress Avenue, Suite 1700, Austin, Texas 78701

	7			
	*			

Penalty Calculation Worksheet (PCW) PCW Revision March 26, 2014 Assigned 29-Feb-2016 Screening 18-Mar-2016 PCW 14-Apr-2016 **EPA Due** RESPONDENT/FACILITY INFORMATION Respondent Enduro Composites, Inc Reg. Ent. Ref. No. RN104559190 Facility/Site Region 12-Houston Major/Minor Source Minor **CASE INFORMATION** Enf./Case ID No. 52050 No. of Violations 1 Docket No. 2016-0413-AIR-E Order Type 1660 Media Program(s) Air Government/Non-Profit No Enf. Coordinator Jessica Schildwachter Multi-Media EC's Team Enforcement Team 5 Maximum Admin. Penalty \$ Limit Minimum \$25,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) \$11,250 Subtotal 1 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage. Subtotals 2, 3, & 7 Compliance History \$0 0.0% Adjustment No adjustment for compliance history. Notes Culpability No Subtotal 4 \$0 0.0% Enhancement The Respondent does not meet the culpability criteria. Notes Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0 0.0% Enhancement* \$0 **Economic Benefit** Subtotal 6 Total EB Amounts *Capped at the Total EB \$ Amount Estimated Cost of Compliance \$11,250 SUM OF SUBTOTALS 1-7 Final Subtotal OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% Adjustment \$0 Reduces or enhances the Final Subtotal by the indicated percentage Notes

STATUTORY LIMIT ADJUSTMENT

Notes

PAYABLE PENALTY

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Deferral offered for expedited settlement.

DEFERRAL

Final Penalty Amount

Adjustment

Final Assessed Penalty

Reduction

20.0%

\$11,250

\$11,250

-\$2,250

\$9,000

PCW

0%

Respondent Enduro Composites, Inc.

Case ID No. 52050

Reg. Ent. Reference No. RN104559190

Media [Statute] Air

Enf. Coordinator Jessica Schildwachter

>> Final Compliance History Adjustment

Policy Revision 4 (April 2014) PCW Revision March 26, 2014

Compliance History Worksheet >> Compliance History Site Enhancement (Subtotal 2) Component Number of... Number Adjust. Written notices of violation ("NOVs") with same or similar violations as those in 0 0% the current enforcement action (number of NOVs meeting criteria) NOVs Other written NOVs 0 0% Any agreed final enforcement orders containing a denial of liability (number of 0 0% orders meeting criteria) Orders Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal 0 0% government, or any final prohibitory emergency orders issued by the commission Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or 0 0% Judgments consent decrees meeting criteria) and Consent Any adjudicated final court judgments and default judgments, or non-adjudicated Decrees final court judgments or consent decrees without a denial of liability, of this state 0 0% or the federal government Any criminal convictions of this state or the federal government (number of Convictions 0 0% counts) Chronic excessive emissions events (number of events) **Emissions** 0 0% Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 0 0% 1995 (number of audits for which notices were submitted) Audits Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were 0 0% disclosed) Environmental management systems in place for one year or more No 0% Voluntary on-site compliance assessments conducted by the executive director No 0% under a special assistance program Other Participation in a voluntary pollution reduction program No 0% Early compliance with, or offer of a product that meets future state or federal No 0% government environmental requirements Adjustment Percentage (Subtotal 2) >> Repeat Violator (Subtotal 3) Adjustment Percentage (Subtotal 3) >> Compliance History Person Classification (Subtotal 7) Unclassified Adjustment Percentage (Subtotal 7) >> Compliance History Summary Compliance History No adjustment for compliance history. **Notes** Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Final Adjustment Percentage *capped at 100%

		18-Mar-2016	Docket No. 2016-0413-AIR-E	PCW
		Enduro Composites, Inc.		Policy Revision 4 (April 2014)
Cas Reg. Ent. Refer	se ID No.			PCW Revision March 26, 2014
	[Statute]			
		Jessica Schildwachter		
Violatio	on Number			
R	ule Cite(s)		116.110(a) and 116.315(a) and Tex. Health & Sa e §§ 382.0518(a) and 382.085(b)	fety
Violation I	Description	expiration of the permit	oplication for renewal at least six months prior to the specifically, New Source Review ("NSR") Permit 4, 2015, and the Respondent continued to operate Plant without authorization.	No.
			Base P	enalty \$25,000
>> Environment	al, Prope	rty and Human Healt	h Matrix	
	Release	Harm Major Moderate	e Minor	
OR	Actual			
	Potential		Percent 0.0%	
>>Programmation	c Matrix			
	Falsification	Major Moderate		
L		X	Percent 5.0%	
Matrix Notes		100% of the r	ule requirement was not met.	
				22.750
			Adjustment \$	23,750
				\$1,250
Violation Events				
	Number of	Violation Events 9	248 Number of violation day	'S
		daily		
		weekly		
6		monthly <u>x</u> quarterly	Violation Base P	enalty \$11,250
		semiannual annual single event		*
			· ·	
	Nine month		f from the permit expiration date (July 14, 2015) to g date (March 18, 2016).	o the
Good Faith Effor	te ta Ca-	inhi co	0.0	luction \$0
GOUG FAILII EIIOF	is io coll	iply 0.09 Before NOE/NO		luction \$0
		Extraordinary		
		Ordinary N/A x		
			and on the control of the control of the control of	
		MOTESII	ondent does not meet the good faith criteria for this violation.	
* Paterna Company Comp			Violation Su	btotal \$11,250
Economic Benefi	it (EB) fo	r this violation	Statutory Limit To	est
	Estimat	ed EB Amount	\$429 Violation Final Penalty	Total \$11,250
,		This vi	olation Final Assessed Penalty (adjusted for l	imits) \$11,250

Economic Benefit Worksheet

Respondent Enduro Composites, Inc. **Case ID No.** 52050 Reg. Ent. Reference No. RN104559190 Media Air Percent Interest Depreciation Violation No. 1 Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs **EB** Amount **Item Description Delayed Costs** Equipment 0.00 \$0 \$0 \$0 Buildings 0.00 \$0 \$0 \$0 Other (as needed) 0.00 \$0 \$0 Engineering/Construction 0.00 \$0 \$0 \$0 Land 0.00 \$0 n/a Record Keeping System 0.00 \$0 n/a \$0 Training/Sampling 0.00 \$0 n/a \$0 Remediation/Disposal 0.00 \$0 n/a \$0 \$5,000 Permit Costs 14-Jul-2015 \$429 \$429 n/a n/a Other (as needed) 0.00 \$0 \$0 Estimated cost to obtain a new NSR Permit. The Date Required is the date NSR Permit No. 74865 expired. Notes for DELAYED costs The Final Date is the estimated date of compliance. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **Avoided Costs** Disposal 0.00 \$0 \$0 Personnel 0.00 \$0 \$0 Inspection/Reporting/Sampling 0.00 \$0 \$0 \$0 Supplies/Equipment 0.00 \$0 \$0 Financial Assurance [2] 0.00 \$0 \$0 \$0 ONE-TIME avoided costs [3] \$0 \$0 \$0 Other (as needed) 0.00 \$0 Notes for AVOIDED costs \$5,000 Approx. Cost of Compliance TOTAL \$429 The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEO Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN603930488, RN104559190, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, CN603930488, Enduro Composites, Inc.

Classification: UNCLASSIFIED

Rating: ----

or Owner/Operator: Regulated Entity:

RN104559190, ENDURO SYSTEMS

Classification: UNCLASSIFIED

Rating: -----

Complexity Points:

Repeat Violator: NO

CH Group:

14 - Other

HOUSTON

Location:

16602 CENTRAL GREEN BLVD, HOUSTON, TX 77032-5131, HARRIS COUNTY

TCEQ Region:

REGION 12 - HOUSTON

ID Number(s):

POLLUTION PREVENTION PLANNING ID NUMBER

AIR NEW SOURCE PERMITS PERMIT 138491

AIR NEW SOURCE PERMITS ACCOUNT NUMBER HGA018R

INDUSTRIAL AND HAZARDOUS WASTE EPA ID

AIR NEW SOURCE PERMITS AFS NUM 4820101826 **INDUSTRIAL AND HAZARDOUS WASTE SOLID WASTE**

TXR000065680

REGISTRATION # (SWR) 87772

STORMWATER PERMIT TXR05BY93

AIR EMISSIONS INVENTORY ACCOUNT NUMBER HGA018R

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: March 03, 2016

Agency Decision Requiring Compliance History:

Component Period Selected: March 03, 2011 to March 03, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jessica Schildwachter

Phone: (512) 239-2617

Site and Owner/Operator History:

1) Has the site been in existence and/or operation for the full five year compliance period?

YES

2) Has there been a (known) change in ownership/operator of the site during the compliance period?

NO

3) If **YES** for #2, who is the current owner/operator?

N/A

4) If YES for #2, who was/were the prior

N/A

owner(s)/operator(s)?

5) If **YES**, when did the change(s) in owner or operator N/A occur?

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

F. Environmental audits:

N/

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	• §	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
ENDURO COMPOSITES, INC.	§	
RN104559190	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2016-0413-AIR-E

I. JURISDICTION AND STIPULATIONS

On	, the Texas Commission on Environmental Quality ("the
Commission" or	"TCEQ") considered this agreement of the parties, resolving an enforcement
action regarding	Enduro Composites, Inc. (the "Respondent") under the authority of TEX.
HEALTH & SAFET	CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the
TCEQ, through t	ne Enforcement Division, and the Respondent, represented by Lydia Gonzalez
Gromatzky of the	law firm Andrews Kurth LLP, together stipulate that:

- 1. The Respondent owns and operates a fiberglass manufacturing plant located at 16602 Central Green Boulevard in Houston, Harris County, Texas (the "Plant"). The Plant consists or consisted of one or more sources as defined in Tex. Health & Safety Code § 382.003(12).
- 2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to Tex. Water Code §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to Tex. Water Code § 5.013 because it alleges violations of Tex. Health & Safety Code ch. 382 and the rules of the TCEQ.
- 3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 4. An administrative penalty in the amount of \$11,250 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$9,000 of the penalty and \$2,250 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
- 5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or

Enduro Composites, Inc. DOCKET NO. 2016-0413-AIR-E Page 2

required in this action, are waived in the interest of a more timely resolution of the matter.

- 6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
- 7. This Order represents the complete and fully-integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
- 8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
- 9. The Executive Director recognizes that on January 27, 2016, the Respondent submitted a permit application to authorize the sources of air emissions at the Plant.

II. ALLEGATIONS

During an investigation conducted on January 28, 2016, an investigator documented that the Respondent failed to submit an application for renewal at least six months prior to the expiration of the permit, in violation of 30 Tex. Admin. Code §§ 116.110(a) and 116.315(a) and Tex. Health & Safety Code §§ 382.0518(a) and 382.085(b). Specifically, New Source Review ("NSR") Permit No. 74865 expired on July 14, 2015, and the Respondent continued to operate the Plant without authorization.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Enduro Composites, Inc., Docket No. 2016-0413-AIR-E" to:

Financial Administration Division, Revenue Operations Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. The Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Order, until such time authorization to operate is obtained or until 360 days after the effective date of this Order, whichever is earlier, comply with the provisions in expired NSR Permit No. 74865;
 - Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application submitted on January 27, 2016, within 30 days after the date of such requests, or by any other deadline specified in writing; and
 - c. Within 360 days after the effective date of this Order, submit written certification that either authorization to operate the sources of air emissions at the Plant has been obtained or that operation has ceased until such time that appropriate authorization has been obtained. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Air Section Manager Houston Regional Office Texas Commission on Environmental Quality 5425 Polk Street, Suite H Houston, Texas 77023-1486

3. All relief not expressly granted in this Order is denied.

Enduro Composites, Inc. DOCKET NO. 2016-0413-AIR-E Page 4

- 4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Plant operations referenced in this Order.
- 5. If the Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Order Compliance Team at the address listed above.
- 7. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- This Order may be executed in separate and multiple counterparts, which together shall 8. constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
- 9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

Enduro Composites, Inc. DOCKET NO. 2016-0413-AIR-E Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	Date		
Day Miler for Panire Garus (For the Executive Diffector	9.22.16 Date		
I, the undersigned, have read and understand the the attached Order, and I do agree to the terms an acknowledge that the TCEQ, in accepting paymen on such representation.	nd conditions specified therein. I further		
I also understand that failure to comply with the and/or failure to timely pay the penalty amount, r			
 A negative impact on compliance history; Greater scrutiny of any permit applications submitted; Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency; Increased penalties in any future enforcement actions; Automatic referral to the Attorney General's Office of any future enforcement actions; and TCEQ seeking other relief as authorized by law. 			
In addition, any falsification of any compliance do	ocuments may result in criminal prosecution.		
Wallow Mordin	7/13/2016		
Signature	Date		
Mallace 5. Moodlief	President + coo		
Name (Printed or typed) Authorized Representative of Enduro Composites, Inc.	Title		
Instructions : Send the original, signed Order with penalty Revenue Operations Section at the address in			
\square If mailing address has changed, please check	k this box and provide the new address below		